

## COMPENSATION FOR EXPROPRIATED LANDS

*Exchanges of notes at Washington November 9 and 12, 1938, and  
April 17 and 18, 1939*

*Entered into force November 12, 1938*

*Superseded April 2, 1942, by convention of November 19, 1941*<sup>1</sup>

53 Stat. 2442; Executive Agreement Series 158

*The Secretary of State to the Mexican Ambassador*

DEPARTMENT OF STATE

WASHINGTON

*November 9, 1938*

EXCELLENCY:

I have the honor to acknowledge the receipt of the note addressed by your Government on September 1 to Ambassador Daniels.<sup>2</sup>

Careful examination of that note discloses no grounds that would justify this Government in modifying the position set forth at length in my notes to you dated July 21 and August 22, 1938.<sup>2</sup> My Government must insist that the recognized rules of law and equity require the prompt payment of just compensation for property that may be expropriated. Therefore, inasmuch as my Government remains convinced of the basic soundness of its position, buttressed as it is by law and justice, and in view of the scope and content of our recent conversations, in the course of which you informed me of the policy of your Government and of the desire of the Government of Mexico, which is similar to the desire of the Government of the United States, to settle all difficulties which may arise between the two Governments in a spirit of friendship and of equity, further discussion of the note under reference seems unnecessary.

My Government has a particular desire to safeguard friendship with Mexico not only because Mexico is one of its nearest neighbors but on account of the many ways in which ever improving relations, in the fullest sense, between the two countries could be complementary and mutually beneficial. It has, therefore, spared no effort to arrive at prompt, friendly and satisfactory solutions of problems as they arose. It was in this spirit that last November my Government urged, in accordance with the principle of just compensation,

<sup>1</sup> TS 980, *post*, p. 1059.

<sup>2</sup> For text, see *Compensation for American-Owned Lands Expropriated in Mexico*, Department of State publication 1288 (U.S. Government Printing Office, 1939), p. 31.

the desirability of a comprehensive agreement providing for the compensation of the American citizens whose properties had been seized by the Mexican Government. It is in that same spirit that I have given every attention to the proposals of your Government which you recently communicated to me. Based upon them, my Government would be willing to agree to the plan proposed hereafter which, if acceptable to your Government, would resolve at once the present controversy, in so far as it relates to compensation for American-owned agrarian properties seized since August 30, 1927, that if continued must seriously impair the friendly relations between the two countries. It is also in this same spirit that I earnestly commend it to the favorable consideration of your Government.

One: Both our Governments are in accord that the values of the American-owned agrarian properties expropriated since August 30, 1927, be determined by a Commission composed of one representative of each of our Governments, and in case of disagreement, by a third person selected by the Permanent Commission with seat at Washington, as established by the so-called Gondra Treaty.<sup>3</sup>

Two: My Government proposes (a) that the two commissioners be appointed by their respective Governments at once; (b) that they hold their first meeting in the City of Mexico on the first day of December 1938; (c) that each Government bear the entire expense of the salaries, maintenance, transportation, and incidentals of its commissioner and his staff and that any expense incurred jointly, as for instance in connection with airplane travel, be shared equally.

Three: My Government believes it important, and understands that your Government is in accord in this regard, that a time limit be established for the completion of the work of the commissioners. It is therefore proposed that the commissioners be instructed that they must complete the determinations of value by not later than May 31, 1939. If during the course of the deliberations of the two commissioners they are unable to reach a common finding upon the matters submitted to them for their joint determination, my Government proposes that the Permanent Commission at Washington be requested to appoint immediately the third commissioner in order that he may resolve the matters upon which the two Governments' commissioners are unable to agree. It is further proposed that in case of disagreement in any particular case, the representative appointed by the Permanent Commission be requested to render his award within not more than two months from the time the case is submitted to him. The salaries and expenses of the third commissioner will be defrayed in equal proportions by the two Governments.

Four: The adequate and effective measure of compensation to be paid in each case shall be determined in the usual manner by taking into consideration, among other pertinent factors, the establishment of the nationality of

<sup>3</sup> Treaty signed at Santiago May 3, 1923 (TS 752, *ante*, vol. 2, p. 413).

the claimant, the legitimacy of his title, the just value of the property expropriated, the fair return from the property of which claimant has been deprived between the time of expropriation and the time of receiving compensation, as well as such other facts as in the opinion of the commissioners should be taken into account in reaching a determination as to compensation.

Five: It is my understanding that the Mexican Government will pay the sum of \$1,000,000 United States currency as first payment of the indemnities to be determined by the Commission to which this note refers, and that this payment will be made to the Government of the United States on or before May 31, 1939.

It is my further understanding that immediately subsequent to the determination by the Commission of the final valuation, in accordance with the procedure indicated in numbered paragraph Four of this note, of American-owned agrarian properties as defined in numbered paragraph One, the two Governments will reach an agreement as to the amounts to be paid to the Government of the United States by the Government of Mexico annually for the account of such claims in the years subsequent to the year 1939. As the basis for such agreement there will be taken into consideration such statement of its ability to pay as may be demonstrated by the Government of Mexico. The Government of Mexico, I understand, agrees that the annual payments to be made by it to the Government of the United States subsequent to the year 1939 for the account of these claims will in no event be less than \$1,000,000 United States currency, and that such payments will be made on June 30 of the corresponding year.

In view of our recent conversations I have every confidence that the foregoing proposals will prove acceptable to Your Excellency's Government. I shall await with interest Your Excellency's response to the suggestions made.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL

His Excellency

Señor Dr. Don FRANCISCO CASTILLO NÁJERA,  
*Ambassador of Mexico.*

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*The Minister of Foreign Affairs to the American Ambassador*

[TRANSLATION]

MINISTRY FOR FOREIGN AFFAIRS  
UNITED MEXICAN STATES  
MEXICO

511284

MEXICO, November 12, 1938

MR. AMBASSADOR:

I have the honor to acknowledge receipt of the note dated November 9, 1938, addressed by His Excellency Secretary of State Cordell Hull to the Ambassador of Mexico in the United States of America, Dr. Francisco Castillo

Nájera, in which the Government of Your Excellency, while maintaining its opinion that the recognized principles of law and equity require the immediate payment of just compensation for expropriated properties, makes known its readiness to agree to a plan which, based on the proposals of my Government, may apply to the consideration and payment of agrarian expropriations (*afectaciones*) subsequent to 1927.

The Government of Mexico, in its turn, while reaffirming its conviction that it has not acted contrary to the rules and principles of international law, of justice and equity, by the enactment and application of its agrarian legislation, is in agreement with the plan presented and takes pleasure in recognizing that the sentiments of cordial friendship which unite our two countries have in the end prevailed over differences of a technical and juridical order.

As was proposed in my note to your Government on August 3 of the current year, my Government agrees that the value of the expropriated lands shall be established by a commission consisting of a representative of each Government, and that cases of disagreement between these representatives shall be decided by a third person designated by the Permanent Commission, established by the Gondra Pact, which has its seat in Washington, notwithstanding the fact that, in this instance, it is not a matter of an investigating commission, an express function assigned that commission in the said pact.

My Government agrees, likewise, in conformity with its original intention, that the representatives of the two Governments shall be immediately designated and that their first meeting shall take place in the City of Mexico on the 1st day of December of the present year. Outlays for emoluments, travel, and other expenditures, both of the representatives and of the persons assisting them in their work, shall be defrayed by the respective Government. The two Governments shall each pay one-half of the expenses incurred jointly.

Likewise, the emoluments which are to be paid to the third person referred to shall be shared equally, as proposed by your Government, by Mexico and the United States.

My Government expressly declares that it agrees that the representatives designated be instructed to the effect that their work of evaluation be concluded in May 1939, and that the cases of disagreement be submitted to the consideration of the third person, who will likewise be requested to render his decision within a period of not more than 2 months, counting from the date on which his intervention has been requested.

The Government of Mexico understands that the commissioners, in proceeding to make the respective evaluation, shall take into account, among other pertinent facts, the establishment of the nationality of the claimant, the legality of his title to enter a claim, and the last fiscal valuation prior to the expropriation.

Respecting the manner of payment of the corresponding indemnifications, my Government will pay the amount of one million dollars in the month of May 1939.

My Government is agreed that, once the representatives fix the amount of the indemnifications, the Governments shall agree upon the annual amount which the Government of Mexico shall pay to that of the United States, in the years subsequent to 1939, on the claims in question. In the determination of the said annual payments, the economic possibilities of Mexico shall be taken into account. My Government agrees, forthwith, that the annual amounts which must be paid to the United States Government shall not be less than one million dollars, United States currency, and, lastly, my Government agrees that the payments shall be made on the 30th day of June of each year.

The Government of Mexico deems it necessary to have it understood that the decisions reached by the representatives designated shall in no case extend beyond evaluation of the lands expropriated and the modalities of payment of the amount determined; that they shall not constitute a precedent, in any case nor for any reason; neither shall they decide the juridical principles maintained by the two Governments and applicable to the matter in question.

The Government of Mexico is pleased to recognize that, in formalizing this arrangement, it has been able, on the one hand, to show, as was expressed in the note to which I reply, its especial desire to safeguard its friendship with the United States, because of the mutual benefits which this reciprocal sentiment represents for both countries, and to carry out, on the other hand, the mandates of the agrarian legislation, an expression of our traditional policy, which, on being interpreted by the President of the Republic, was supported, formally, by the National Legislative Body in the reply given to the message from the Executive by the President of the Congress of the Union at the opening of the period of sessions on September 1, last.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

EDUARDO HAY

His Excellency

Mr. JOSEPHUS DANIELS,  
*Ambassador Extraordinary and Plenipotentiary  
of the United States of America,  
City.*

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*The American Chargé d'Affaires ad interim to the Minister of Foreign  
Affairs*

EMBASSY OF THE  
UNITED STATES OF AMERICA  
MÉXICO, D. F., April 17, 1939

No. 3540

EXCELLENCY:

I have the honor to refer to the exchange of notes of November 9 and November 12, 1938 between Your Excellency's Government and my Government on the subject of agrarian claims.

In view of the very limited time now remaining within the period originally contemplated for the examination and evaluation of all the agrarian claims, it would seem that the period of time for the filing of claims might usefully be extended to July 31, 1939 and the period for the adjudication of claims might be extended to November 30, 1939. It would also seem that both periods might be further extended, if necessary, particularly since, under the provisions of the notes just mentioned, Mexico will obviously have a period of years in which to complete payments.

It would be understood that the extension of time would be without prejudice to any other aspect of the agreement of November 9–November 12, 1938.

Please accept, Excellency, the renewed assurances of my highest and most distinguished consideration.

PIERRE DE L. BOAL  
*Chargé d'Affaires ad interim*

His Excellency

Señor General EDUARDO HAY,  
*Minister for Foreign Affairs,*  
*México, D. F.*

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*The Minister of Foreign Affairs to the American Chargé d'Affaires ad interim*

[TRANSLATION]

MINISTRY FOR FOREIGN AFFAIRS  
UNITED MEXICAN STATES  
MEXICO

54133

MEXICO, *April 18, 1939*

MR. CHARGÉ D'AFFAIRES:

I am replying to your courteous note of the 17th instant, in which you state that—in view of the very limited time now remaining for the examination and evaluation of the agrarian claims of American citizens by the Commissioners of Mexico and the United States in the terms of the agreement concluded by means of the notes exchanged on November 9th and 12th 1938—you consider that both the period for the presentation of the claims and that for the deciding of them might usefully be extended.

My Government expresses, once more, its known desire that these matters be definitively settled and, animated by such purpose, it accedes, at once, to the request which you make in the note under acknowledgment, and agrees that the period for the filing of claims before the Commissioners of both countries shall be extended to July 31st of this year, and, from this latter date to November 30th next, there be established a period for the deciding of the amount to cover the claims presented.

I avail myself of this opportunity to renew to you the assurances of my very courteous and distinguished consideration.

EDUARDO HAY

PIERRE DE L. BOAL, Esquire,  
*Chargé d'Affaires of the*  
*United States of America,*  
*City.*